

FILED

TIME 1:38 P M

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

OCT 14 2010

IN AND FOR THE COUNTY OF MOHAVE

VIRLYNN TINNELL
CLERK SUPERIOR COURT

BY: peg DEPUTY

SC*

HONORABLE STEVEN F. CONN

DIVISION 3

DATE: OCT. 14, 2010

VIRLYNN TINNELL, CLERK

COURT NOTICE/ORDER/RULING

STATE OF ARIZONA,

Plaintiff,

vs.

No. CR-2010-00821

CASSLYN MAE WELCH,

Defendant.

STATE OF ARIZONA,

Plaintiff,

vs.

No. CR-2010-00823 ✓

JOHN CHARLES MCCLUSKEY,

Defendant.

The Court has received from KPNX-TV Channel 12 in Phoenix a request to place a camera in the courtroom and televise the proceedings in the case of the Defendant McCLUSKEY on October 15, 2010, and presumably for any subsequent hearings. Although the request does not refer to the hearing in the case of the Defendant WELCH, that hearing is set at the same time, so the request would obviously apply to her case equally. Attached to the request is a copy of Rule 122, Rules of the Supreme Court of Arizona.

IT IS ORDERED directing the Clerk to file the request and provide copies to counsel for the State and for each of the Defendants.



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Although the request specifies the hearing scheduled on October 15, 2010, it also addresses "subsequent events" in the case of the Defendant McCLUSKEY. The Court, therefore, treats this as a blanket request to televise all further proceedings in this case, including any jury trial and possible subsequent hearings.

Under Rule 122, allowing the televising of court proceedings is at the discretion of the judge. However, a denial of a request may be made only based on specific findings that the likelihood of harm arising from enumerated factors would outweigh the benefit to the public of camera coverage.

The Court determines that televising these proceedings would impact the right of both the State and the Defendants to a fair trial. Specifically, it would make it more difficult to obtain a pool of prospective jurors whose ability to be fair and impartial would not have been undermined by pretrial publicity. The Court is aware that there has already been significant local media coverage that will make it a challenge to select a fair and impartial jury, and the Court does not want to make that even more of a challenge. The Court also fears that knowing the proceedings were being televised might make potential jurors less willing to serve. The Court notes that these Defendants are accused of escaping from a theoretically secure correctional facility and later murdering persons in another state. Potential jurors may be concerned for their personal safety under those circumstances and assurances that their images will not be televised may do little to allay those concerns.

The Court determines that coverage would distract the participants and would detract from the dignity of the proceedings. This determination is made in conjunction with what the Court perceives as the inadequacy of the physical facilities of the courtroom for television coverage. These proceedings will be held in a relatively small courtroom which already has limited seating. There are no facilities or structures already in place to facilitate the unobtrusive televising of proceedings.

The Court determines in the exercise of its discretion under Rule 122(b) and upon consideration of the factors set forth therein, for the reasons set forth above, that the likelihood of harm from televising the proceedings would outweigh the benefit to the public of camera coverage and that televising these proceedings should not be allowed.

IT IS ORDERED denying the request to televise any phase in the proceedings in any one of these cases.

cc:

Mohave County Attorney*

Stephen R. Glazer*
Attorney for Defendant WELCH

Mohave County Public Defender*
John Pecchia
Attorney for Defendant MCCLUSKEY

KPNX-TV Channel 12*
Attn: Kevin Curran

Kip Anderson*
Mohave County Superior Court Administrator

Mohave County Jail*

Honorable Steven F. Conn*
Division 3